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Agenda item 129

Programme budget for the biennium 2010-2011

Report of the Fifth Committee

Rapporteur: Ms. Nicole Ann **Mannion** (Ireland)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2010, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-fifth session the item entitled "Programme budget for the biennium 2010-2011" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the question of conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda under this item at its 12th and 27th meetings, on 29 October and 23 December 2010. Statements and observations made in the course of the Committee's consideration of the question are reflected in the relevant summary records (A/C.5/65/SR.12 and 27).

3. For its consideration of the question, the Committee had before it the following documents:

(a) Report of the Secretary-General on the conditions of service for the ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/64/635 and Corr.1);

(b) Related report of the Advisory Committee on Administrative and Budgetary Questions (A/64/7/Add.20);

(c) Report of the Secretary-General on the conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/65/134 and Corr.1);

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(d) Related report of the Advisory Committee on Administrative and Budgetary Questions (A/65/533).

II. Consideration of draft resolution A/C.5/65/L.21

4. At its 27th meeting on 23 December, the Committee had before it a draft resolution entitled "Conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda" (A/C.5/65/L.21), submitted by the Chair of the Committee on the basis of informal consultations coordinated by the representative of New Zealand.

5. At the same meeting, the Committee adopted draft resolution A/C.5/65/L.21 without a vote (see para. 6 below).

III. Recommendation of the Fifth Committee

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda

The General Assembly,

Recalling its resolutions 37/240 of 21 December 1982, 40/257 A and C of 18 December 1985 and 45/250 A to C of 21 December 1990, section VIII of its resolution 53/214 of 18 December 1998, its resolutions 55/249 of 12 April 2001, 56/285 of 27 June 2002 and 57/289 of 20 December 2002, section III of its resolution 59/282 of 13 April 2005, its resolutions 61/262 of 4 April 2007, 63/259 of 24 December 2008 and 64/261 of 29 March 2010 and its decision 62/547 of 3 April 2008,

Recalling also Article 32 of the Statute of the International Court of Justice, as well as relevant resolutions of the General Assembly that govern the conditions of service and compensation for the members of the International Court of Justice and the judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994,

Having considered the reports of the Secretary-General[1] and the related reports of the Advisory Committee on Administrative and Budgetary Questions,[2]

Noting that the workload of the President of the International Court of Justice and that of the Vice-President, when acting as President, have increased since 1987 and that the amount of the special allowance of the President and Vice-President, when acting as President, has not increased since then,

Noting also that the workload of the Presidents of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and that of the Vice-Presidents, when acting as President, have increased since the inception of the Tribunals and that the amount of the special allowance of the President and Vice-President, when acting as President, has not increased since then,

Reaffirming that ad litem judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia benefit from the

[1] A/64/635 and Corr.1 and A/65/134 and Corr.1.

[2] A/64/7/Add.20 and A/65/533.

same terms and conditions of service, mutatis mutandis, as those of the permanent judges of the Tribunals, pursuant to the statutes of the Tribunals,

1. *Takes note* of the reports of the Secretary-General;[1]

2. *Reaffirms* the principle that the conditions of service and compensation for non-Secretariat United Nations officials shall be separate and distinct from those for officials of the Secretariat;

3. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions,[3] subject to the provisions of the present resolution;

4. *Takes note* that the review of the pension benefits of the members of the International Court of Justice and the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda will be reviewed at its sixty-sixth session, including options for defined benefit and defined contribution pension schemes;

5. *Decides* to review at its sixty-sixth session the pension schemes for the members of the International Court of Justice and the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and requests the Secretary-General to include in his report a proposal for a mechanism that he may use to determine retirement pension benefits, taking into account acquired pension benefits rights accrued prior to serving in the Court or the Tribunals;

6. *Also decides* to increase the special allowance of the Presidents and the Vice-Presidents, when acting as President of the Court or the Tribunals, to 25,000 dollars and 156 dollars per day, respectively;

7. *Further decides* that the relocation allowance benefit received by the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda will be the same as that received by the members of the International Court of Justice;

8. *Decides* to grant a one-time ex gratia payment upon completion of service for ad litem judges who have served for a continuous period of more than three years, on the basis of the length of time served exceeding those three years, as per the schedule contained in annex to the present resolution;

9. *Also decides* that, owing to the unique and exceptional circumstances of the conditions of service of ad litem judges in the International Criminal Tribunal for Rwanda, arising from the failure to establish a second pool of ad litem judges, the decision set out in paragraph 8 above shall under no circumstances constitute a precedent for eligibility for elements of conditions of service, as such eligibility does not exist under the current regulatory framework;

10. *Further decides* to re-establish a three-year cycle for the review of the conditions of service and compensation for the members of the International Court of Justice and the judges and ad litem judges of the two Tribunals, and to undertake the next comprehensive review at its sixty-eighth session.

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[1] A/65/533.

Annex

One-time ex gratia payment schedule for ad litem judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia

Term of service (years)	*Months of salary*
< 3	0.000000
4	2.054112
5	4.108225
6	6.162337
7	8.216449
8	10.270562

Note: Payment is prorated by number of months.